UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1992/SR.46
27 April 1992

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 46th MEETING (FIRST PART*)

Held at the Palais des Nations, Geneva,
on Thursday, 27 February 1992, at 3 p.m.

Chairman: Mr. WALKER (Australia)

later: Mr. NASSERI (Islamic Republic of Iran)

later: Mr. ENNACEUR (Tunisia)

CONTENTS

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus

(b) Situation of human rights in occupied Kuwait

(c) Situation of human rights in various countries (continued)

* The summary record of the second part of the meeting appears as document E/CN.4/1992/SR.46/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-11323/4435B

CONTENTS (continued)

Advisory services in the field of human rights

Rights of the child, including:

(a) Status of the Convention on the Rights of the Child

(b) Report of the Special Rapporteur on the sale of children

(c) Programme of action for the elimination of the exploitation of child labour

(d) Draft programme of action for the prevention of the sale of children, child prostitution and child pornography (continued)

The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

(c) SITUATION OF HUMAN RIGHTS IN VARIOUS COUNTRIES

(agenda item 12) (continued) (E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 30 and Add.1, 31, 32, 33, 34, 35, 36, 37, 60 (S/23212), 64, 67, 68 and 72; E/CN.4/1992/CRP.1 and 2; E/CN.4/1992/NGO/2, 5, 10, 11, 13, 19, 24 and 34; E/CN.4/1991/24, 27, 28, 29, 30, 31, 33 and Add.1, 34, 35 and 36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

1. Mrs. STEPHENS (World Alliance of Reformed Churches) said that her organization was concerned about current human rights violations in the Philippines resulting from the continuing existence of local paramilitary units known as Citizens Armed Forces Geographical Units or CAFGUs. The CAFGUs, which were essential instruments in the three-tiered defence system of the Armed Forces of the Philippines, had been created in July 1987 by Executive Order No. 264 as part of the Government's counter-insurgency programme, popularly called the "total war policy". Joining a CAFGU was theoretically voluntary, but recruitment was often forced, as those refusing ran the risk of being labelled guerrilla sympathizers and became liable to harassment. At present CAFGUs were increasingly being used in the clearing as well as the defence phases of military operations. The violations perpetrated by their members had been repeatedly denounced, not only in the Philippines but also by the international community. Like many non-governmental organizations in the Philippines, the Committee on Human Rights of the Philippine Senate had recommended their dissolution. Similar recommendations had been made, without result, by the European Parliament in 1990 and also by the United Nations Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Torture in their reports to the Commission in 1991 (E/CN.4/1991/20/Add.1 and E/CN.4/1991/17). In a hearing before the House of Representatives, the Chief of Staff of the Armed Forces of the Philippines, General Lisandro Abadia, had argued that the CAFGUs were an effective tool in the counter-insurgency campaign; increased funds had been requested to increase CAFGU membership from 72,000 to 80,000 by the end of 1992. The only instance in which CAFGUs had been disbanded had occurred recently in the province of Nueva Ecija, at the request of a local politician who had complained of their potential use for fraud in the May elections. That fear was probably well-founded; it was disturbing that the Commission on Elections had exempted CAFGUs from the ban on carrying guns during the elections.

2. The existence of the CAFGUs was only one manifestation of the civil war that was raging in the Philippines and had claimed the lives of many Filipinos. There had been reports of atrocities by the New People's Army during a battle in the south. Her organization joined many other

non-governmental organizations in the Philippines in welcoming the decision by General Abadia to bring charges of violation of the Second Protocol of the Geneva Convention, which the Armed Forces of the Philippines had so far refused to apply. That announcement could be considered as recognition of the authority of international law and the basis for resumption of peace negotiations between the Philippine Government and the National Democratic Front. A peaceful, negotiated settlement of the internal armed conflict in the Philippines was essential for the well-being of the Filipino people and the improvement of human rights there. Disbanding the CAFGUs was a crucial step in that process. Her organization therefore urged the Commission to exercise its good offices in support of the peace process in the Philippines.

3. Mr. SHEIKI (International Falcon Movement) said that Mr. Rafsanjani's words as reported in the newspaper Ressalat: "Throughout the world, there are always people whose only remedy is suppression. We must suppress them. This climate of terror must exist for treacherous and unfit individuals" embodied the Iranian Government's attitude to human rights. Developments throughout the world in recent years, which had demonstrated that democracy and human rights were the only way forward, gave cause for deep concern over the gross violations of human rights occurring in Iran, especially the common practice of torture and the summary execution of political opponents and political prisoners on the pretext that they were drug traffickers. In paragraph 409 of his third report (E/CN.4/1992/34), the Commission's Special Representative, Mr. Galindo Pohl, had noted that the number of executions had increased week by week, with no sign of slackening. As Mr. Rafsanjani himself had said, the whole Iranian judicial system was based on four sentences - execution, hanging, amputation and exile - targeted chiefly at members and sympathizers of the People's Mojahedin. Political trials in Iran, if any, fell far short of international standards of fair trial. As the Special Representative had pointed out in paragraph 129 of his report, no measures were known to have been taken during 1991 to establish legal or procedural safeguards against prisoners being tortured or otherwise mistreated. After concluding an agreement with the International Committee of the Red Cross (ICRC) on visits to Iranian prisons, the Iranian Government had made widespread transfers of prisoners to conceal the appalling conditions in which they were being detained. Furthermore, many members of the families of prisoners had been attacked and arrested by the Revolutionary Guards on their way to speak to the ICRC delegation in Tehran.

4. The most fundamental rights of Iranian women were being denied under Iran's Civil and Penal Codes. Article 102 of the Penal Code, under which a woman appearing in public without the customary veil would be sentenced to up to 74 lashes, was applied throughout Iran; 800 women had been arrested on that charge in the space of 2 days in April 1991. According to the Procurator General of Iran, anyone who rejected the principle of the "Hijab" (dress code) was an apostate, the punishment for an apostate under Islamic law being death (para. 191 of the report).

5. Assassination attempts had steadily increased over the past two years. The Government's silence in response to requests from the Swiss magistrate examining the Rajavi affair, who had stated that one or more members of Iranian official services had been implicated in Mr. Rajavi's assassination, left little doubt of its responsibility. It was noteworthy that a Geneva

court had acquitted a journalist sued by the Iranian Government for accusing the Iranian President of direct involvement in that assassination. In the past few months, anti-government protests and demonstrations had been violently suppressed by the security forces.

6. The Iranian Government claimed the right to impose the system it had established on other Muslim communities throughout the world; its human rights record, however, made that system anything but a model one. As Mr. Galindo Pohl had said in his report, in 1991 the Islamic Republic of Iran had made no appreciable progress towards improved compliance with human rights in accordance with the current international instruments. Experience had shown that any laxity towards the Iranian regime on the part of the international community was interpreted by the religious dictatorship in Tehran as grounds for escalating repressive measures and exporting terrorism. His organization urged the Commission to condemn the Iranian Government's gross violations of human rights and its dissemination of terrorism and religious fundamentalism, and to continue to monitor the situation in Iran.

7. Mrs. BROCH (Third-World Movement Against the Exploitation of Women) said that women were the most frequent victims of gross violations of human rights in third-world countries, particularly in the Asia and Pacific region; their situation could only worsen. Amnesty International had compiled a list of all the abuses inflicted on women and all the suffering they had endured simply in the course of performing their roles as wives, mothers, daughters, sisters and women working for women. Armed conflicts had also turned countless women, along with their children, into refugees or displaced persons in their own land. The internal refugee problem was an issue that could no longer be ignored. It affected all sectors of society and had also highlighted the plight of women. Governments seemed to ignore their responsibility in the matter.

8. Her organization, together with the 22 other non-governmental organizations on whose behalf she was speaking, voiced its particular concern at the situation in Sri Lanka, which had recently acquired the reputation of being the new killing field of Asia. Under the state of emergency in force in Sri Lanka since May 1983, many of the basic rights and freedoms guaranteed by the Sri Lankan Constitution had been flagrantly violated. Summary execution, enforced disappearances, detention without trial, torture and death in custody had become commonplace in the armed conflict between government forces and the Liberation Tigers of Tamil Elam (LTTE) and deserved the Commission's urgent attention. The report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1992/18/Add.1) stated that the security forces and the "death squads" linked with the army had been responsible for most of the disappearances and killings.

9. The Third-World Movement Against the Exploitation of Women, notwithstanding the fact that it held the Government of Sri Lanka primarily responsible for all situations giving rise to human rights violations, vigorously condemned violations of international humanitarian law by non-State entities, in particular those by the People's Liberation Front (JVP) in the south of the country and the LTTE in the north-east, where thousands of civilians had perished in the armed conflict. Government forces had resorted to a sustained campaign of indiscriminate aerial bombardment, an economic

blockade and mass arrests of non-combatant Tamil civilians, including those in refugee camps. The Working Group had observed that many of those taken from refugee camps had later "disappeared". Those worst affected by such violations of fundamental human rights had been women, whether Tamil, Muslim or Sinhalese, who had been left without husbands or sons and had suffered rape and sexual harassment at the hands of hostile armed groups. The repetition of such events was largely due to the continuing state of emergency, under which the security forces had unlimited powers of arrest and detention, to the impunity which those forces enjoyed, to the use of the conflict by the Government to curb many of the basic rights and freedoms of the people on the grounds of national security, and to the inadequacy of the measures adopted by the Government to deal with violators of human rights.

10. Her organization believed that the ending of the military conflict in Sri Lanka and other third-world countries, especially the Philippines, was an essential first step towards restoring respect for human rights there. In the case of Sri Lanka, it called upon the parties to the conflict in the north-east to respect all norms of international humanitarian law, and called upon the Commission to urge the parties to effect an immediate cease-fire and enter into negotiations, to appoint a special rapporteur to report on the situation in Sri Lanka at its forty-ninth session and to look into the plight of women in the areas of armed conflict.

11. Mrs. SINEGIORGIS (Observer for Ethiopia) said that her delegation took exception to the allegations of serious violations of human rights in Ethiopia which the Austrian delegation had made at a previous meeting. Those completely groundless accusations were inconsistent with prevailing realities. It was true that under the previous military regime involuntary disappearances, torture, killings, and arbitrary or extrajudicial executions had been widespread and that for the past 17 years the basic rights of the Ethiopian people had been denied, so that they had lived in a climate of fear. However, the situation had changed dramatically and the people were enjoying democratic rights and freedoms on the basis of the Charter adopted by the National Conference on Peace and Democracy held in Ethiopia in July 1991. In the Charter, the transitional Government of Ethiopia, in which over 30 political parties were represented, had given a firm commitment to build a new democratic society in which fundamental human rights and freedoms would be fully protected and respected. The Charter recognized all the rights enshrined in the Universal Declaration and guaranteed the equality of every individual before the law, without distinction as to religion, sex, or national or ethnic origin. It also guaranteed the right to freedom of opinion and belief and the right to participate in the political life of the country, including the right to form political parties. In addition, it recognized the right to self-determination of the various Ethiopian nationalities. Furthermore, on 12 December 1991, the transitional Government had reiterated its determination to expedite Ethiopia's accession to the two International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples' Rights. The transitional Government had been making every effort to live up to its commitments and create conditions likely to foster democracy, for example by removing all restrictions on political gatherings and demonstrations and the expression of differing opinions on any issue of a national or local character. Since the collapse of the military dictatorship

in May 1991, Ethiopians had been able, for the first time, to enjoy peace and stability. Although limited and isolated acts of banditry had occurred in certain parts of the country, the transitional Government had, contrary to allegations, scrupulously observed the fundamental freedoms and rights of individuals in its efforts to ensure law and order.

12. Given the encouraging developments in Ethiopia, the "grave concern" expressed by the representative of Austria was misplaced; her delegation sincerely hoped that in future the Austrian, or any other, delegation would verify its sources of information.

13. Mr. WEERAKOON (Sri Lanka) said that during the past few days his delegation had been working with other members of the Commission to address the issues that had emerged in the discussion on agenda item 10 relating to the question of disappearances. His Government had been called upon to deal with armed insurgency and terrorism in the south, north and east of the country, in the course of which there had been many human rights violations. Recognizing the gravity of the facts, it had attempted by various means to improve the human rights situation and restore to the country the status it had once enjoyed as a model of democracy. That was attested to by a number of recent positive trends.

14. For example, since the previous session of the Commission, a policy of openness and transparency had permitted public ventilation of grievances and the institution of inquiries into all human rights violations in the past. Secondly, several mechanisms and institutions had been set up for the purposes of such inquiries. They were not ad hoc measures but structural reforms with long-term implications. Thirdly, the Government had accepted virtually all the recommendations made by bodies such as ICRC and Amnesty International with regard to the treatment of detainees; it had even encouraged further visits by such bodies to facilitate evaluation of progress. Fourthly, his Government had agreed to implement the 14 recommendations submitted by the Working Group at the present session. An Official Committee was currently studying the recommendations, which would be put into effect following Cabinet approval. Some, such as the recommendation to extend the mandate of the Commission on Involuntary Removal, were already being implemented. The Working Group on Enforced or Involuntary Disappearances had also been invited to visit Sri Lanka again in 1992.

15. The Government was making every effort, with the participation of all parties, to achieve a political solution to the armed insurgency. A parliamentary Select Committee had been established to look at proposals put forward by various political groups in the country. The Government hoped that dialogue would lead to a compromise solution in the course of 1992. The recent return of persons who had taken refuge in southern India and their rehabilitation in their former homes were further manifestations of the return to normal conditions.

16. In addition, two important pieces of legislation had been adopted, one to amend the Constitution with a view to establishing a permanent Human Rights Commission and the other to amend chapter 3 (Fundamental Rights) of the

Sri Lankan Constitution, with a view to strengthening existing provisions and bringing them into line with the International Covenant on Civil and Political Rights.

17. The CHAIRMAN read out, on behalf of the Commission, a statement on the human rights situation in Sri Lanka, in which the Commission acknowledged the measures taken by the Government of Sri Lanka to address the human rights situation throughout the country and welcomed the valuable cooperation it had accorded to the Working Group on Enforced or Involuntary Disappearances.

18. The Commission was, however, seriously concerned about the violations noted in the report of the Working Group (E/CN.4/1992/18/Add.1), particularly the large number of disappearances. The Commission called upon the Government of Sri Lanka to intensify its efforts to ensure the full protection of human rights and further called upon all parties to respect the universally accepted rules of humanitarian law. It was imperative that the Government of Sri Lanka should continue to pursue a negotiated political solution with all parties.

19. The Commission urged the Government of Sri Lanka to implement the recommendations of the Working Group. It expressed satisfaction at the Government's willingness to do so and its invitation to the Working Group to return to Sri Lanka in the course of 1992 to evaluate progress in implementation of its recommendations. The Commission looked forward to considering the report which the Working Group would submit to it at its forty-ninth session. It requested the secretariat to ensure that the above statement appeared verbatim in its report on its forty-eighth session.

20. Mr. ARCILLA (Philippines), speaking in exercise of the right of reply, said in response to the statement by the representative of the World Alliance of Reformed Churches that there was no civil war in the Philippines. His delegation had already had occasion to point out that the armed citizens' units mentioned had been disarmed and disbanded by the Philippine Government. While welcoming the interest shown by non-governmental organizations in the Philippines, his delegation wondered why none of them had thought of drawing the Commission's attention to the atrocities committed by certain armed groups with the sole aim of overthrowing the Government by force. The restoration of democracy and liberty in the Philippines in 1986 constituted incontrovertible evidence of the devotion of the Philippine people to the cause of human rights. It was in the context of overcoming the communist insurrection seeking to destroy that democracy that the human rights situation in the Philippines should be viewed.

21. Mr. SEMICHI (Observer for Algeria), speaking in exercise of the right of reply, welcomed the interest shown by delegations and non-governmental organizations in the situation in his country and their hope that the democratic process would not be compromised. He assured them that the Algerian authorities would make every effort to ensure that the move towards democratic freedom, progress and stability would be pursued. Algeria was currently in a period of transition, which would soon give way to improved conditions for the Algerian people and for democracy.

22. The CHAIRMAN, before closing the debate on agenda item 12, proposed that the Commission, under agenda item 12 (a), should adopt by consensus the following draft decision:

> "The Commission decided that the debate under agenda item 12 (a), 'Question of human rights in Cyprus', should be postponed to the forty-ninth session of the Commission and be given due priority at that session, it being understood that action required by previous resolutions of the Commission on that subject would continue to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation".

He noted that the observer for Turkey had requested that his reservations with regard to previous decisions of the Commission should be placed on record. If there was no objection, he would take it that the Commission adopted the draft decision by consensus.

23. It was so decided.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 19)
(E/CN.4/1992/50 and 51)

24. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 19, said that legislation, its implementation and information were the three pillars on which all action in the human rights field was based. While the legislative process was to a large extent complete, the priority in future would be the implementation of human rights standards. The programme of advisory services and technical cooperation of the Centre for Human Rights offered a unique opportunity to assist Governments in that task. The programme thus included the provision of expert advice on the holding of free and fair elections, the elaboration of democratic constitutions, the training of persons responsible at the national level for the implementation of international human rights standards, and the translation and printing of international human rights instruments in local languages.

25. At the same time, much of the work of the Centre had been concerned with building up or strengthening national human rights institutions, facilitating the ratification of human rights instruments, speeding up the process of bringing national legislation into line with such instruments or improving the reporting of States parties to the various treaty bodies. Although the programme of advisory services complemented other areas of the United Nations human rights programme, it did not replace the existing monitoring and investigation procedures. The report of the Secretary-General on advisory services in the field of human rights (E/CN.4/1992/49) provided information on activities financed under the programme of advisory services and technical assistance and on those financed under the Voluntary Fund for Technical Cooperation. The progress of democratization, especially tangible at present in Eastern Europe, had become a prime focus for advisory services. Countries such as Albania, Bulgaria, Lesotho, Mongolia, Paraguay and Romania had recently received such assistance from the Centre.

26. In accordance with resolution 1991/50 of the Commission, the Centre for Human Rights had intensified its coordination with bodies and specialized agencies within the United Nations system. The Centre continued, as in the past, to organize throughout the world lectures on the international system of protection and promotion of human rights. It had strengthened its collaboration with the Council of Europe, the Organization of African Unity and the Organization of American States, and with national and academic institutions and non-governmental organizations. In 1991, the Centre had sent persons to more than 100 seminars, training courses or meetings organized by other organizations. That collaboration permitted identification of other areas of possible cooperation between the Centre and other human rights bodies.

27. In 1991, three types of activities had been financed under the United Nations regular budget for human rights: (a) seminars, workshops and training courses; (b) fellowships and internships; and (c) provision of advisory services by experts. In the fellowship programme priority had been given principally to candidates whose responsibilities at home were related to the administration of justice or to the implementation of international conventions on human rights, and to nationals of countries that had benefited little if at all from the programme. Most participants in the programme were of the opinion that the knowledge they had acquired had practical applications in their work. More than 75 internships had been offered to outstanding graduate students.

28. The Voluntary Fund for Technical Cooperation in the field of Human Rights had as its basic aim support for action aimed at building up and strengthening national and regional infrastructures that would have a long-term impact on the implementation of human rights. The activities undertaken for the purpose were of four kinds: constitutional reform and other legislative assistance; national and regional centres for documentation and training; training courses, seminars and workshops; and other activities such as the drafting of a teaching manual on human rights.

29. Although the Centre maintained a clear distinction between projects financed under the Voluntary Fund and those coming under the regular budget, both activities were closely coordinated. In that connection, the Commission's attention was drawn to the recent establishment within the Centre's Advisory Services branch of a Technical Cooperation Unit to implement the mandate of the Voluntary Fund and manage the programmes and projects it financed. That Unit was currently undertaking a streamlining of project management procedures along four main lines: project identification and fund raising; project elaboration and appraisal; implementation; and project evaluation.

30. In addition, the Centre had strengthened its cooperation with other organizations active in the field of human rights and development, and with other United Nations bodies. Contacts had been established at various levels with the World Bank and OECD, and important joint projects had been undertaken in Latin America with UNDP. Regular inter-agency meetings took place annually in Geneva to broaden the scope for cooperative endeavours. He drew attention to the significant increase in the requests for technical assistance received by the Centre and the ensuing financial implications. He expressed his

appreciation to those Governments and non-governmental organizations that had contributed to the Voluntary Fund, and hoped they would continue to do so and be joined by others.

31. The CHAIRMAN invited Mr. Fernando Volio Jimenez, Independent Expert, to introduce his report on Equatorial Guinea (E/CN.4/1992/51).

32. Mr. VOLIO JIMENEZ (Independent Expert) said he wished to begin by thanking the staff of the Centre for Human Rights, who had been of invaluable assistance, and to express his appreciation to Mr. Jan Martenson, Under-Secretary-General for Human Rights. He had visited Equatorial Guinea from 25 November to 9 December 1991 to investigate, under his terms of reference, the situation in the country with regard to human rights and fundamental freedoms. The Government's refusal to cooperate had made his task especially difficult. He regretted in particular that he had been unable to meet the President of the Republic, the Minister of Education, the Minister of Health or the Director-General for Radio, the Press and Television. He had made three previous visits to Equatorial Guinea: in October 1979, as Special Rapporteur, and in October 1980 and November 1984 as Expert. In 1980 he had put forward a plan of action that would have provided a sound foundation for a representative democratic system following the overthrow of the dictatorship of Francisco Macías. The Government of Equatorial Guinea had accepted the plan of action and had subsequently benefited from the advisory services of the Centre for Human Rights. He had reported annually to the Commission on the mishaps befalling the plan. The situation at present, far from moving towards the goals set in 1990, was deteriorating and approaching that which had prevailed under the Macías regime.

33. Despite its promises, the Government was repressive and imposed a reign of terror. As a result, the exiles who had returned to their country, trusting in government commitments on the safe return of refugees and exiles, had been arrested on or shortly after arrival. Despite the unhelpfulness of the authorities, he had been able to meet some of those exiles who had been detained at Bata police station. Contrary to the assurances he had been given, the 22 persons concerned had not been freed quickly; they had not been released to house arrest in their home towns in the interior of the country until January 1992.

34. The situation was alarming on all fronts. Citizens were helpless against the abuses and excesses of absolute power. Intimidation, arbitrary arrest, administrative detention, detention without charge or being brought before the courts, and long periods of detention incommunicado were constant threats to the population. As the report indicated, freedom of opinion, freedom of the press, freedom of peaceful assembly and association, trade union freedoms and freedom of worship had been suppressed. The judiciary and the legislature were controlled by the President. The situation of women was not in keeping with the universal standards recognized in a democratic society. Citizens no longer had access to effective remedies before the courts. The new Constitution proclaimed in December 1991 was less democratic than the 1982 Constitution. The laws and decrees intended to protect citizens' rights were inoperative; a gulf separated the Government's words from

its deeds. The Government was, in fact, indifferent to human rights. The Minister for Foreign Affairs had even asked: "What do human rights have to do with democracy?".

35. He recommended (para. 125 of the report) that the defunct 1980 plan of action, which had never been applied in practice, should be replaced by a new one, which would comprise a number of measures to ensure political reform and institute multiparty democracy without delay. The Commission must realize that very grave events were taking place in Equatorial Guinea at that very moment. Having adopted an amnesty decree and drawn up a law on political parties, the Government had again practised violence for repressive purposes. For example, persons to whom he had talked during his visit had subsequently been arrested and interrogated, in contempt of Commission resolution 1991/70, which had requested Governments to abstain from acts of intimidation or reprisal against persons seeking to cooperate with the United Nations or its representatives. All the latest information pointed to a new wave of political repression. The persecution to which Pedro Motu Mamiaga Oyana had been subjected (paras. 70, 71 and 73) was one indication, and there were many others. Mr. Anthony Goldman, a reporter working for the BBC's African Service, had recently informed him that Mr. Placido Miko Abogo, an opposition leader, had been arrested and beaten up by a military patrol. According to Mr. Goldman, the amnesty for political prisoners recently announced by the Government had not been put into effect. Political activity was under strict control.

36. Opponents of the regime who had sought refuge to escape arrest, two in the United States Embassy and two more in the UNDP office, and had subsequently left those havens after receiving guarantees of safety had since been under police surveillance. The Barcelona Bar Association (Spain) had protested energetically against the fact that two lawyers, nationals of Equatorial Guinea, had been refused authorization to attend the meeting of Law Associations held in Barcelona in the second half of January 1992. Not content with bearing down strongly on the citizens of Equatorial Guinea, the Government ignored protests by the heads of the diplomatic missions of Spain, France, the European Community and the United States and the UNDP Director. On 17 February 1992, it had sent to all embassies, consulates and international organizations an unprecedented note verbale restricting the travel and activities of their staff. During his visit to Equatorial Guinea, most conversations he had had with private individuals had been held at the UNDP office in Malabo, which made it likely that the Government had acted in reprisal against that United Nations agency, contrary to the provisions of international law and Commission resolution 1991/70, which he had mentioned earlier.

37. In his view, the situation in Equatorial Guinea could no longer be handled through advisory services but called for investigation by the Commission on some other basis. Support for the people of Equatorial Guinea in their rightful struggle for their freedoms was vital. The Government's current statements were empty words; the establishment of a genuine constitutional State was the only way to foster political and social democracy.

38. The CHAIRMAN thanked Mr. Volio Jimenez for his excellent report and for his recommendations. Without prejudice to the impartiality of his office, he (the Chairman) could say that the report was worrying; the Commission would have to consider how to act on it. He was sorry it had been submitted so late in the session that the deadline for submission of draft resolutions had expired. He invited Mr. Bruni-Celli, Independent Expert, to introduce his report on the human rights situation in Haiti (E/CN.4/1992/50).

39. Mr. BRUNI-CELLI (Independent Expert) reminded members that in its resolution 1991/77 the Commission had given him a mandate to monitor developments in the human rights situation in Haiti and to help devise measures intended to bring about the necessary improvements. In 1991, Haiti had had three different Governments; until 7 February there had been the provisional Government of Mrs. Ertha Pascale Trouillot, which had organized general and presidential elections, followed by the Government of President Jean-Bertrand Aristide, winner of the presidential election, and lastly, from 29 September, a de facto Government following a coup d'état. Since the international community had hoped that a civilian Government with wide popular support would lead Haiti along the road to democracy, it had condemned the military coup d'état and called for restoration of the legitimate Government. While in power, President Aristide had tried to improve the human rights situation and to overcome the political, social and economic difficulties facing the country, but he had been hampered by a number of factors. He had encountered opposition from the army, which considered the civilian Government a threat to the power it had held for nearly two centuries. Conservatives were afraid a civilian Government would make radical social and economic reforms that would harm their interests. Duvalier supporters, especially the "Tontons macoutes", were unwilling to face prosecution for crimes committed under preceding Governments.

40. The Government of President Aristide had, moreover, been confronted by various political and structural problems: internal divisions in the political front that had brought it to power, lack of experience and ability in many of its members, the people's call for bold political and social reforms, and the hostile attitude of factions that were out of power.

41. Nevertheless, during the period when President Aristide had been in power, positive steps had been taken, such as the establishment of human rights commissions within Parliament, the drafting of legislation on organization of the police, elimination of the office of section chief, decentralization and agrarian reform, investigation of breaches of human rights, preparation of emergency aid programmes for Haitians expelled from the Dominican Republic, projects to deal with the problem of rural violence, and requests for technical assistance from international bodies in improving the administration of the judicial system. However, the main obstacles to enjoyment of human rights had not been overcome: the judicial system was ineffective and the prison system continued to deteriorate, the customary violence continued in rural areas and was increasing in the towns, the problems caused by assigning police duties to the armed forces had not been dealt with.

42. The coup d'état of 29 September 1991, which had overthrown the first popularly-elected civilian Government Haiti had ever had, posed a challenge to the Organization of American States, whose General Assembly in Santiago,

Chile, in June 1991 had approved a declaration whereby the countries of the Americas pledged to defend the right of peoples to choose their leaders freely. That was the reason for the interest shown by inter-American bodies, international organizations and democratic countries in the situation in Haiti.

43. Since the coup d'état, the human rights situation in Haiti had become particularly critical. The reign of terror instituted by the armed forces and those in their pay had caused 300,000 persons to flee from the capital to the countryside and others to attempt to get to another country. Although it was difficult to obtain exact figures, the Inter-American Commission on Human Rights had estimated the number of victims at 1,500 by mid-November. Illegal arrest and torture and ill-treatment of detainees were also widespread. Radio and the press were rigorously censored and even subjected to intimidation. Any demonstration by students, teachers or other popular or trade union organizations was forcibly suppressed. Those were the methods used to bring a semblance of calm to the streets.

44. What the future held for human rights in Haiti would depend on several factors, principally a settlement of the political crisis brought about by the coup d'état, which in turn affected the legitimacy of the Government, its national and international recognition, and foreign aid for the country. A solution appeared to be taking shape, since on 25 February two important instruments paving the way for a return to constitutional legitimacy had been signed in Washington under the auspices of the Organization of American States. They were the Protocol between President Aristide and the Parliamentary Negotiating Committee and the Protocol of Agreement between President Aristide and the Prime Minister designate, René Théodore. Those instruments made provision for the return of President Aristide, the strengthening of democratic institutions, guarantees of civil liberties, the principle of the separation of powers, and the unrestricted functioning of political parties and civic organizations.

45. Other structural measures were also needed, however, such as reform of the judicial system, the police, civil and criminal law, and replacement of old autocratic institutions such as section chief by legitimate democratic authorities. At the same time, democratic attitudes would have to be inculcated at all levels, based on tolerance, the right to dissent and the right to peaceful participation in public affairs. A solution still remained to be found to the severe economic, social and cultural problems faced by the Haitian people.

46. He recommended that the Commission should start by asking the Government of Haiti to fulfil its promises to improve the judicial system and the prison system, to modernize civil and criminal legislation, to separate the police from the armed forces, to investigate abuses by the authorities and to implement the 1987 Constitution fully. The Commission should also request international agencies to provide Haiti with the necessary technical and financial assistance for its economic, social and cultural development. Since the human rights situation remained very difficult, partly for economic reasons but mainly as a result of structural problems that could not be solved solely by a return to constitutional legitimacy, the Commission should decide to examine the situation in Haiti under its agenda item 12 and to appoint a special rapporteur, who would report to the Commission periodically.

When domestic and international circumstances allowed, and with the agreement of the constitutional Government, the Centre for Human Rights should provide Haiti with a human rights specialist, who would work with the UNDP office in the country with a view to improving the situation and coordinating material and other assistance to the authorities in order to enhance national institutions for the promotion of human rights.

47. Mr. Nasseri (Islamic Republic of Iran) took the Chair.

48. Mr. EVUNA OWONO ASANGONO (Observer for Equatorial Guinea) expressed surprise at hearing the Expert appointed to report on the situation in Equatorial Guinea (document E/CN.4/1992/51) state that there had been no improvement since 1980. That information was unfounded; what was more, it contradicted the Expert's 1991 reports on the subject. It was no part of the functions of the Commission or its experts to criticize or condemn a country for alleged violations of human rights; their task was rather to foster the action needed to safeguard such rights. Had that not been the case, Equatorial Guinea would have withdrawn from the deliberations of the Commission in 1980. In the circumstances, there were no grounds for putting it in the dock. When Equatorial Guinea had first participated in the work of the Commission, it had been under the dictatorship of President Macías, who had refused to accept any aid from the international community, and had been going through a period of oppression militating against development of human rights. The present Government of Equatorial Guinea had a quite different approach; it considered that declarations of intent were insufficient to instil respect for human rights and, as in the case of democracy, positive action was required to overcome the political, material and moral obstacles preventing man from using his abilities and having full enjoyment of his freedoms. That was the spirit in which Equatorial Guinea had come, and would continue to come, to the Commission, trusting in international cooperation and the will of peoples to promote the good of the human race.

49. There could be no talk of a fundamental right to education in a country where there were no schools, no teachers and no appreciation of the value of education. No appeal could be made to a right to health where there were no doctors, medicines or a hospital network, or to democratic freedoms in a nation in social disintegration where terms such as dialogue, consensus, tolerance, political opposition and the rights of others had no meaning. Human rights therefore touched on broad and complex issues; respect for such rights in any given country was conditional on that country's overall development. Equatorial Guinea had faith in itself and placed great hopes too in cooperation with the international community in order to bring about that development.

50. Under the programme drawn up in 1980 by the Commission on Human Rights, its Special Rapporteur was to assist the Government in ensuring respect for human rights within the context of the conditions prevailing in Equatorial Guinea; that programme could obviously not be implemented unless accompanied by measures to improve the social and economic situation and relied on the political will of the authorities. In that respect, the Expert, ignoring what it had proved possible to do, had said in his report that the plan had not been put into effect. That statement was uncalled for; the Government had in fact unfailingly promoted political liberalism in the context of the social,

political, economic and cultural realities of the country, in accordance with Commission resolution 33 (XXXVI). The situation which had existed following the dictatorship of President Macías had been desperate; it was to improve matters, that the President had remained at his post, not from a thirst for power as Mr. Volio Jimenez insinuated. He had devoted himself to the cause of the people and had no intention of abandoning his responsibilities in response to diktats forced upon him, since that would greatly harm the country.

51. He recapitulated the measures the Government had taken after August 1979 to restore social peace, including its programme of national reconstruction which had aimed at bringing the country back to a basis of normality, overcoming bad feeling, and integrating ethnic and cultural groups. He doubted whether it would have been possible to meet the Commission's request to establish a multiparty system in the country in 1980, when strong disruptive forces had still been rife. Since then, the Government, which was in favour of a multiparty system, had tried to prepare the country accordingly, despite the social, political and cultural realities that had for long hampered its advancement. In 1982, for example, President Obiang had established a civilian Government, a constitution had been drawn up and a "trial democracy" programme had been adopted, to teach the people again how the system worked and to prepare them for parliamentary elections and the establishment of local authorities. There had, admittedly, been some dissent, but it had come from movements opposed to the reform policy and also from the continuance of tribal, ethnic and regional interests. Was it right that such divisions should be allowed to continue? While agreeing that pluralism was the hallmark of democracy, he warned against confusing democratic pluralism and civil strife. The first task in Equatorial Guinea was to unite a divided people.

52. That need had led, in 1985, to the formation of the Democratic Party of Equatorial Guinea, which was open to anyone willing to help in the development of the country and was prepared to accommodate a broad range of trends. Such differing views could be expressed without harm to the national unity currently prevailing after the successive reforms characteristic of a country without a tradition of democracy. A multiparty system could not develop in isolation from the social and cultural environment. Peoples must be given enough time to assimilate the exercise of democratic freedoms in social peace, after which the way was open for democratic pluralism, followed by a change to a market economy, the system prevailing in the world today. That was why the Central Committee of the Democratic Party had decided, on 31 March 1991, to recommend to the Government the establishment of a multiparty system, a recommendation the People's Assembly had approved while stressing the need to avoid provoking violence and discord that would put national unity at risk, for the people feared a return to civil strife. President Obiang had therefore worked for the adoption by the Government, in August 1991, of a programme paving the way for political pluralism - which the Expert had failed to mention - that took account of the fears of the people of Equatorial Guinea. The short-term goal of the programme was the preparation of provisions to safeguard the orderly introduction of a multiparty system; its medium-term goal, to be attained before the end of the present parliamentary session in 1993, was the authorization of political organizations; and its long-term goal was the participation of all recognized parties in the presidential elections in 1995.

53. By claiming that the Government made pronouncements and nothing more, the Expert was in breach of his mandate and of the truth. The Government had within the set period passed laws on multiparty government, amnesty, political parties, freedom of assembly, freedom to demonstrate, freedom of worship, labour policy and the right of appeal, all of which were in line with the people's wishes and with established procedures worked out in collaboration with representatives of the political, economic, social and cultural sectors and with the assistance of friendly countries. To call in question the moral integrity of the Government, as the Expert had done, was an act incompatible with the ethical principles of the United Nations, or it might be concluded that those it entrusted with missions were serving hidden interests. The instruments relating to civil liberties - which were restrictive merely in the interests of the community - were available for consultation by the members of the Commission. Equatorial Guinea already practised separation of p ers between the Prime Minister and the Head of State, registration was already open to parties seeking recognition, notice could be given of meetings and demonstrations, and the six political prisoners had been freed. The Government could not negotiate with anonymous groups or foreigners who proclaimed themselves to be leaders of the opposition. Since it was now possible under the law to form a political party and lead it, the Government hoped that a genuine national consensus would rapidly emerge.

54. What assistance and advice had been provided by the Commission? Equatorial Guinea had, admittedly, been visited by two Experts who had been supposed to help in drawing up civil and penal codes. That work, however, was still not complete and the training course on administration of the judicial system recommended by one Expert appeared to have been completely forgotten.

55. Among other irregularities, the Expert's report had appeared in the press before its submission to the Commission. That fact did not reflect on the good faith of the Expert or the good relations between the Government of Equatorial Guinea and the United Nations, but showed that special interests were at work. Furthermore, despite the fact that the Expert had referred to the desperate state of the national economy, he took no account of it and made no recommendation for its improvement. The report made no mention of the progress made in implementing the 1980 plan, and seemed attentive only to the superficial and negative aspects of the situation. It ignored the fact that guarantees of human rights were dependent on a country's level of economic, social and cultural development, and gave no indication that political pluralism had been introduced peacefully in Equatorial Guinea, without the upheavals and violence experienced in other countries.

56. In conclusion, his Government, without wishing to reject the assistance and advice of the United Nations, was obliged, by its duty to its people, to repudiate the report of the Expert and to qualify his attitude as contrary to the aims of the United Nations since the report not only gave no evidence of any wish to respond to the aspirations of the people of Equatorial Guinea, but was liable to discourage both nationals and non-nationals who wished to contribute to the progress and development of Equatorial Guinea.

RIGHTS OF THE CHILD, INCLUDING:

(a) STATUS OF THE CONVENTION ON THE RIGHTS OF THE CHILD

(b) REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN

(c) PROGRAMME OF ACTION FOR THE ELIMINATION OF THE EXPLOITATION OF CHILD LABOUR

(d) DRAFT PROGRAMME OF ACTION FOR THE PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

(agenda item 22) (continued) (E/CN.4/1992/45, 54, 55 and Add.1, 71 and 74; E/CN.4/1992/NGO/5, 14 and 32; E/CN.4/1991/51; E/CN.4/Sub.2/1991/41 and Corr.1; CRC/C/7)

57. Mr. HESSEL (France) said that protection of the rights of the child was a more appropriate field than ever for international cooperation, since it constituted a problem of concern to all States without exception. It was to be hoped that the States that had not yet acceded to the Convention on the Rights of the Child, adopted by the General Assembly in 1989, would do so as soon as possible. In order to prevent too great a gap between commitments and reality, the Committee on the Rights of the Child would have to give careful consideration to the reservations made to the Convention in order to see whether they were in fact compatible with its provisions. France, for its part, was at present holding the inter-ministerial consultations necessary to prepare the report it was to submit to the Committee in 1992 on the continuing implementation of the Convention on its territory.

58. France was ready to take any steps that might be suggested to combat the perennial violation of the provision of the Convention against the use of children in armed conflicts. On the sale of children, the Special Rapporteur, Mr. Muntarbhorn, had submitted a series of detailed recommendations that States should take into account, in addition to the information programme he was calling for. The first point of attack should be the wall of silence that all too often prevented the public from learning of the problem. Fortunately, a large number of non-governmental organizations were tackling the problem, including the International Catholic Child Bureau, whose statement his delegation looked forward to with interest. The specific proposals made by the Special Rapporteur to end organized sexual tourism were also of special interest. France was prepared to ban travel agencies having a direct or indirect link with the prostitution or pornographic exploitation of children, and had recently taken steps to put a stop to so-called "pink" telephone chat-lines. The rights of the child ought to be a fundamental concern in a society where there were all too many temptations to make money out of everything; nothing should be considered more important than giving the rising generation self-respect and caring for their protection.

59. Miss KAYALI (Syrian Arab Republic) welcomed the fact that the Commission's agenda carried a separate item on the rights of the child. Children, who made up approximately half the world's population, were

especially vulnerable and should thus enjoy special protection. In a young country like the Syrian Arab Republic, the number of under-18-year-olds was extremely high and each person in work fed three other people, while in the developed countries the number was one! The authorities in her country thus made every effort to provide essential services in the areas of food, health and education; those services were free of charge, and encouraging results had already been obtained. The infant mortality rate, for example, had fallen from 72 per thousand in 1978 to 35 per thousand in 1990; immunization coverage of children had reached 90 per cent in 1990. Primary schooling was compulsory and in 1988/89, 99 per cent of children of primary school age were attending school. There were plans to extend compulsory schooling to the secondary level. Social and economic measures were also being taken to lower the school drop-out rate.

60. Following adoption of the Convention on the Rights of the Child in 1990, the Syrian Arab Republic had established a ministerial committee to consider its provisions. Very recently, in December 1991, a national conference on children had been held in Damascus, in cooperation with UNICEF and other international bodies and with the participation of the national services concerned. At the conference, five working groups chaired by ministers had considered maternal and child health, food, education, water supply and sanitation, and the situation of children living under difficult conditions. The important recommendations made had been given practical effect through the adoption of a national plan of action for implementation of the World Declaration on the Survival, Protection and Development of Children and the creation of a coordination body. The measures taken were based on the general plan for social and economic development of the Syrian Arab Republic, a plan itself based on a number of articles of the Constitution which stated that the family was the basic unit of society and expressed the need to protect the institution of marriage, children and mothers and to promote women's rights, particularly in rural areas.

61. Her country had replied to the questionnaire sent by the Special Rapporteur appointed to examine the question of the sale of children. Because of the legislation in force, however, that phenomenon did not exist in the Syrian Arab Republic. Child labour was also prohibited, and the age below which children were not allowed to work was set at 15 or 17 years, depending on whether the public or private sector was concerned. Night work by children was totally prohibited and they were not permitted to work more than six hours a day. Penalties were laid down for infringements of the law.

62. In conclusion, her delegation wished to denounce Israeli practices that affected child rights in the occupied territories of Palestine, the Golan and south Lebanon. By compromising the futures of those children, Israel was violating rights recognized in the instruments to which it was a party.

63. Mr. ERMACORA (Austria) said that although the first need of all children was for the protection provided by their families, the need of many among them for special protection by the international community had been recognized as early as 1959, when the General Assembly had adopted the Declaration on the Rights of the Child. It had, however, taken more than 30 years for

the United Nations to develop monitoring procedures to give effect to the basic rights of the child. The first report of the new Committee on the Rights of the Child and the report of the Special Rapporteur on the sale of children were very promising.

64. It was also very encouraging that 109 States had become parties to the Convention on the Rights of the Child adopted in 1989, even though the very broad reservations made by some were disturbing. Since article 51 of the Convention debarred any reservation "incompatible with the object and purpose" of the Convention, it might be asked whether the reservations by some States on the grounds of religion or traditional values were in accordance with the object and purpose of the Convention. Broad and vague reservations could hamper the monitoring functions of the Committee on the Rights of the Child. It was therefore up to the Committee to consider the impact of such reservations in the framework of the reporting procedure for States, and for the Commission to look into the principle governing reservations to human rights instruments, reservations that might be an expression of the sovereignty of States but could well hamper the implementation of certain provisions.

65. At the first regular session of the Committee the previous October, the 10 experts of which it was composed had adopted provisional rules of procedure, general guidelines regarding the form and content of initial State reports, and a number of other procedural decisions. Given that the Committee would have to consider at least 20 reports a year, the General Assembly had done well to authorize it to hold two annual sessions, each of two to three weeks' duration. His delegation also welcomed the Committee's other recommendations, such as the convening of joint meetings with other treaty monitoring bodies, the setting-up of country files, provision of a Committee resource room at the Centre for Human Rights and the opportunity for non-governmental organizations to participate in its work.

66. The Special Rapporteur on the sale of children had submitted a detailed analysis of the relevant problems, including adoption for commercial purposes, exploitation of child labour and organ transplants. His delegation, which endorsed the Special Rapporteur's recommendations, stressed the importance of prevention through international and national plans or programmes of action. In particular, the establishment of national focal points to deal with the issues of the sale of children, child prostitution and child pornography would help to coordinate action on children's rights. To assist the Special Rapporteur in discharging his mandate, Governments must reply to his questionnaire and invite him to carry out field visits, as the Netherlands had already done. Most of the problems dealt with by the Special Rapporteur occurred in a kind of grey area and could therefore only be solved by means of cooperation between Governments, non-governmental organizations, the individuals concerned, and children and their families. The Netherlands study had shown that such a cooperative attitude could help to identify certain problems more clearly.

67. His delegation hoped that the programme of action for the elimination of the exploitation of child labour proposed by the Sub-Commission's Working Group on Contemporary Forms of Slavery would be implemented. That would require concerted efforts by the Working Group, the Special Rapporteur and the Committee on the Rights of the Child, with the assistance of the Secretary-General of the United Nations.

68. Mrs. MENEZ-ROSAL (Philippines) said that beyond the symbolic importance of the Convention on the Rights of the Child, it was in the future imperative for Governments, the international organizations, the specialized agencies, non-governmental organizations and concerned individuals to see how they could best translate into concrete action their international obligations under the Convention. The Philippines, a signatory to the World Declaration on the Survival, Protection and Development of Children and having ratified the Convention, had recently launched the Philippine Plan of Action for Children for the year 2000 and beyond, with initial funding of 50 million pesos for street children from the President's Special Fund. The Council for the Welfare of Children and the Presidential Council for Youth Affairs had been instructed to review the resources that could be tapped for the longer-term implementation of the Plan of Action, based on the family as the basic unit of society and indispensable for the development of the child.

69. Philippine legislation on child rights had recently been augmented by a new Act to provide children with special protection against abuse, exploitation and discrimination. The Act would protect children against exploitation by unscrupulous individuals and penalize those who forced street children to beg or take part in drug trafficking. It also provided for the establishment of a child protection centre to give psychological assistance for both child victims and child exploiters.

70. Deeply concerned that children had become the victims of the social, economic and political ills of the modern world - industrialization, migration, technical progress, environmental damage, and others, her delegation considered that although Governments would have to take the lead in initiating necessary socio-economic and political reforms, and adopting the guidelines, legislation, programmes and, above all, budgetary provisions essential to ensure child survival, the international community, and the international financial institutions in particular, must also do their share in protecting children's rights. There was, however, a need to avoid duplication and overlapping of the activities and programmes entailed by strengthening the links between Governments and the various organizations, financial institutions and other international bodies.

71. The Special Rapporteur on the sale of children was to be commended for his report (E/CN.4/1992/55). Her delegation endorsed the recommendation that the strategies designed to eliminate the sale of children, child prostitution and child pornography should be multidisciplinary and integrated, and called for coordinated action by development agencies, aid agencies, financial institutions, the private sector, governmental institutions, non-governmental organizations, communities and concerned individuals. It also called for prevention strategies and curative strategies making use of all relevant expertise.

72. Her delegation expressed satisfaction with the work of the 10-member Committee on the Rights of the Child and the guidelines it had prepared for Governments to follow in reporting on their activities in support of the rights of the child; they were asked to specify clearly difficulties they encountered in implementing the Convention and to present constructive solutions. Her delegation urged the international community to make unremitting efforts to seek the best possible solutions to the flagrant and increasing violations of children's rights.

73. Mr. Ennaceur (Tunisia) took the Chair.